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# Lawsuit Challenges Protection For Farming, Forestry

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John and Barbara Burns. Burns says he felt symptoms similar to a sinus infection he attributes to herbicide exposure. | credit: Amelia Templeton | rollover image for more

Residents of a Southern Oregon community who say herbicide spraying made them sick have now filed a lawsuit challenging a state law that shields farmers and foresters from liability.

The lawsuit, filed Tuesday in Curry County Circuit Court, claims Oregon's Farm and Forest Practices Act violates the state's constitution, which guarantees the right to remedy for injury to person, property or reputation.

The law shields farm and timber operations from nuisance or trespass lawsuits. Farming and forestry are by nature often noisy, smelly and/or dusty; the law is intended to ensure that farms and timber sites aren't punished because neighbors think their livestock is too smelly or their backhoes too loud.

It also protects against liability from chemical trespass unless the application of those chemicals happened illegally, damaged crops or caused serious injury or death.

"The law basically grants an immunity to people who spray pesticides from being held responsible," said Chris Winter, an attorney at the Crag Law Center who is representing the residents. "It basically strips away the private property rights for rural landowners in the state."

The lawsuit follows an incident in October, in which pesticides from a helicopter contracted by two different timber owners ended up on properties in the unincorporated community of Cedar Valley. The helicopter, owned by Steve Owen and his company, Pacific Air Research, released a mixture of herbicides over the community, which outraged residents.

Dozens complained that the chemicals made them and their pets sick. Residents were left in the dark for months about what was sprayed and whether it showed up in lab tests. [Investigators with the state Department of Agriculture have called it one of the longest, most complex cases they've ever handled.](#)

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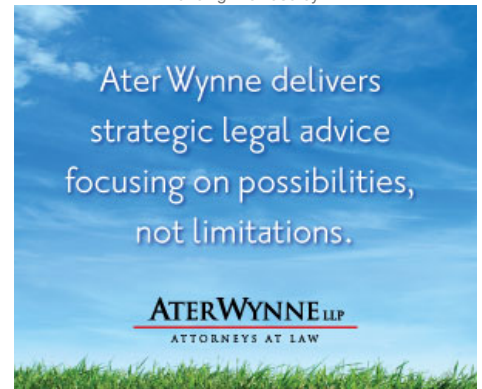
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This week, [the state issued a \\$20,000 fine to Owen and Pacific Air Research and revoked his license](#) for “gross negligence and willful misconduct” in regards to state pesticide law. Those are the maximum penalties for such offenses. Owen can appeal.

John Burns, an assistant fire chief at the volunteer fire department in Cedar Valley who has spoken out about the incident at county commission meetings and state Senate hearings, called the state’s efforts a drop in the bucket.

“The state laws in effect have not done anything for us and we have been violated,” Burns said. “Our civil and constitutional rights have been violated. Our property, our animals, livelihood, our health. Everything has been violated.”

Cedar Valley community members are not against the timber industry, Burns said, and many locals work in that field.

Scott Dahlman, the director of the farm and forest industry group, Oregonians for Food and Shelter, called the lawsuit “unfortunate.” He said the law is constitutional and prevents unnecessary risks to farmers and foresters.

“It would open the floodgates to complaints for every time a farmer’s tractor is going and the neighbor thinks it’s too noisy,” Dahlman said. “It would greatly, greatly hinder the ability for both farmers and foresters to continue to work their land in the way that they have for generations.”

In addition to Pacific Air Research, Crook Timberlands, Barnes & Associates, Joseph Kaufman and Pro Forestry Consulting were all named in the lawsuit. Calls to the defendants were not immediately returned.

A [similar lawsuit in Lane County previously challenged the law](#), stemming from concerns over aerial spraying and positive tests for pesticides in residents’ urine in the Triangle Lake area. The case was dismissed for administrative reasons before the merits of the argument could be addressed.

### **View the complaint**

To print the document, click the "Original Document" link to open the original PDF. At this time it is not possible to print the document with annotations.

**Correction:** An earlier version of this story misstated the law firm representing the plaintiff in a previous suit challenging the same law. The plaintiff's representation was David Force. Crag Law Center filed an amicus brief.

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